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Subject: EEOC Issues Proposed Rule on ADA Compliance for Wellness Programs

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EEOC Issues Proposed Rule on ADA Compliance for Wellness Programs

The U.S. Equal Employment Opportunity Commission (EEOC) published a Notice of Proposed Rulemaking today that provides guidance to both employers and employees on how wellness programs offered as part of employers' group health plans can comply with Title I of the American with Disabilities Act.

Workplace wellness programs are often used to encourage healthier lifestyles or prevent disease. Some of these programs use health risk assessments and biometric screenings to measure blood pressure, cholesterol, and body weight. Incentives such as lower monthly premiums can be rewarded to individuals for participation.

Although the ADA limits the circumstances in which employers may ask employees about their health or require them to undergo medical examinations, it allows such inquiries and exams if they are voluntary and part of an employee health program.

The EEOC's Notice of Proposed Rulemaking clarifies the circumstances in which employers are allowed to obtain medical information from employees under the American with Disabilities Act:

- If an employee health program seeks information about employee health or medical exams, the program must aim to promote health or prevent disease, and not just collect information.
- Employees are not required to participate in a wellness program, and they may not be denied health coverage or disciplined if they refuse to participate.
- Companies may offer incentives of up to 30 percent of the total cost of employee-only coverage in connection with wellness programs. These programs can include medical examinations or questions about employees' health (such as questions on a health risk assessment).
- Discrimination based on disability is prohibited and individuals with disabilities must be provided with reasonable accommodations that allow them to participate.

The Commission seeks comments from the public that will shape the final regulation. The preamble includes 6 specific questions on which public comment is requested; public comment on the proposed rule and these 6 questions will inform the final content of the rule. The questions can be found on pages 19-22 of the

document.

Key issues include how voluntary disclosure should be defined in the context of this rule and how — and to what extent — notice requirements under this rule apply.

Comments can be submitted to the Federal Register until **June 19, 2015**.

Click [here](#) to read the proposal and make comments.

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